

Chapter 3.25

TRANSIENT MERCHANTS/DOOR-TO-DOOR SOLICITORS

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3.25.010 Purpose of Chapter. The purpose of this Chapter is to regulate the activities of individuals who engage in door to door solicitation and/or the activities or persons referred to in this act as transient merchants to protect against criminal activity, including fraud, to minimize the unwelcome disturbance of citizens and the disruption of privacy as necessary in the interest and promotion of the public health, safety, convenience, peace, comfort, order and public welfare of the City of Jasper, Indiana and the citizens and inhabitants thereof. (Ord. 1997-13, S3.25.010, 1997)

3.25.020 Definitions. For the purpose of this Chapter, the following terms, phrases, words and abbreviations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number:

- (1) "Peddler" means any person traveling by foot, wagon, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street carrying, conveying, or transporting goods, wares, merchandise, food products, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance. However, one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Chapter shall be deemed a peddler subject to the provisions of this Chapter. The word "Peddler" shall include the words hawker and huckster.

- (2) "Solicitor" means any person traveling from place to place, from house to house, or from street to street within the City of Jasper, for the purpose of taking orders for the sale of goods, wares, merchandise, magazines, books, or personal property of any nature whatsoever for a future delivery, or for services to be furnished or performed in the future, regardless of whether the person has, carries, or exposes for sale a sample of the subject of the sale or whether he is collecting advance payments on the sales or who solicits monies door-to-door for non-profit or not-for-profit organizations.
- (3) "Transient Merchant" means any person, whether as owner, agent, consignee, or employee, who engages in a temporary business of selling and delivering goods, wares, and merchandise within the City of Jasper, and who, in furtherance of this purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in hotels, motels, lodging houses, apartments, shops, or any street, alley, or other place within the City of Jasper, for the exhibition and sale of the goods, wares, and merchandise, either privately or at public auction. However, this definition shall not be construed to include any person who, while occupying temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only, and this definition shall not be construed to include any person who is a commercial traveler or salesman calling exclusively upon businesses, professional persons, schools, or public institutions for the purposes of taking orders or selling books, equipment, supplies, or services used professionally thereby. A person shall be a transient merchant even though he temporarily associates with a local dealer, trader, merchant, or auctioneer, or conducts the transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant, or auctioneer. The term "Transient Merchant" shall include the terms itinerant merchant and itinerant vendor.
- (4) "Food" means any raw, cooked, or processed edible substance, ice, beverage, drink or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (5) "License" shall mean a license which has been issued pursuant to the requirement of this ordinance. (Ord. 1997-13, S3.25.020, 1997)

3.25.030 License Required.

- (1) It shall be unlawful for a Transient Merchant, Peddler, or Solicitor to engage in their respective businesses within the corporate limits of the City of Jasper without obtaining a license in compliance with the provisions of this Chapter. The obtaining of a license by an employer or principal shall in no way relieve any employee or agent of that employer

or principal of his legal obligation to obtain a license, if his activity falls within the definition set out in Section 3.25.020.

- (2) Licenses issued under the provisions of this Chapter shall contain the information and be in the form prescribed by the Jasper Police Department.
- (3) It shall be unlawful for a transient merchant, peddler or solicitor to engage in door-to-door solicitations before 9:00 a.m. and after 8:00 p.m., and the license to be issued shall show on its face that restriction. Statutory reference: Authority to license transient merchants, see I.C. 25-37-1-11 (Ord. 1997-13, S3.25.030, 1997)

3.25.040 Application. Applicants for any license under this Chapter, whether a natural person, firm, corporation or other entity, shall file a written sworn application signed by the applicant, if an individual, by a partner if a partnership, and by an officer or duly authorized agent if a corporation, with the Jasper Police Department showing the following information.

- (1) The names and description of the applicant and, if other than a natural person, the names of the persons having the management or supervision or the applicant's business during the time that it is proposed that it will be carried on in the City of Jasper.
- (2) The full permanent address and full local address of the applicant.
- (3) A brief description of the nature of the business and the goods to be sold, whether the goods are proposed to be sold from stock in possession, or from stock in possession and by sample; to be sold at auction, direct sale, or by direct sale and by taking orders for future delivery; and where the goods or property proposed to be sold are manufactured or produced.
- (4) If the applicant is employed or acting as an agent, the name and address of the employer or principal, together with the credentials establishing the exact relationship.
- (5) The place or places within the City of Jasper where the applicant proposes to carry on his business and the length of time during which the applicant proposes that the business shall be conducted.
- (6) If one or more vehicles are to be used, a description of them, together with license numbers or other means of identification.
- (7) A copy of a current, valid state issued identification containing a photograph of the applicant and each person who will be selling or soliciting under the License, or if a corporation, a photograph of the person

to have the management or supervision of the applicant's business in the City of Jasper.

- (8) If the applicant is proposing to sell Food (other than locally grown produce exempted under 3.25.100) and is required by local or State ordinances, regulations or laws to have a separate permit or license, including but not limited to a Food Service Establishment Permit, the applicant will produce a copy of any and all valid permits or licenses required.
- (9) Any other reasonable information as to the identity or character of the applicant; or his agents or employees or the method or plan of doing business that the Jasper Police Department may deem proper to fulfill the purpose of this Chapter in the protection of the public good and welfare. (Ord. 1997-13, S3.25.040, 1997)

3.25.050 Investigation of Applicant.

- (1) Upon receipt by the Jasper Police Department of any application for a license under the provisions of this Chapter, the Jasper Police Department may investigate the person's criminal history and moral character as it deems necessary for the protection of the public good and welfare.
- (2) If, as a result of the investigation, the applicant's moral character and business responsibility are found to be such as to endanger or be detrimental to the public and its good and welfare, the license shall be denied or, if issued, revoked. (Ord. 1997-13, S3.25.050, 1997)

3.25.060 Suspension; Revocation; Penalties

- (1) Licenses issued under the provision of this Chapter may be revoked by the Jasper Police Department after notice and hearing for any of the following causes.
 - (a) Fraud, misrepresentation, or false statement contained in the application for the license.
 - (b) Fraud, misrepresentation, or false statement made in the course of the business for which the license is issued.
 - (c) Any violation of any of the provision of this Chapter.
 - (d) Conducting the business for which the license is issued in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

- (2) Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the licensee at his last known address, at least five days prior to the date set for the hearing.
- (3) Upon the determination by the Jasper Police Department that it believes an emergency exists and that for the protection of the public welfare any license should be immediately suspended, the Jasper Police Department may forthwith suspend the license pending hearing as provided for in this Ordinance.
- (4) (a) Penalties. Any person convicted of a violation of any provision of this Chapter shall be fined in a sum not less than the applicable amounts set forth below:

First Offense:	\$ 25.00
Second Offense:	\$100.00
Third Offense:	\$300.00
Fourth Offense:	\$600.00

Each day any violation of this Chapter continues shall be considered a separate offense. The City shall also have the right to recover the costs of administering this Chapter, including but not limited to filing fees and attorney fees.

- (b) Enforcement. All officers of the Jasper Police Department shall enforce this Ordinance.
- (c) Administrative Liability. No officer, agent, or employee of the City of Jasper shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent or employee of the City of Jasper as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the City Attorney until the final determination of the proceeding therein. (Ord. 1997-13, S3.25.060, 1997)

3.25.070 Fees.

- (1) At the time of filing the application for a license as provided for by this Chapter the applicant, unless exempt pursuant to Section 3.25.100, shall pay a \$25.00 fee to the City of Jasper for the license.

- (2) In the event the application is denied or revoked, the City of Jasper shall retain the \$25 fee to cover the expense of processing the application and the cost of investigation and shall refund any additional fees to the applicant.
- (3) All license fees must be paid in advance with the filing of the application, and no license shall be issued until the license fees have been paid. If any licensee desires to continue in business after the expiration of a license, a new license must be obtained as required under this Chapter. (Ord. 1997-13, S3.25.070, 1997)

3.25.080 Exhibition of License.

- (1) Every person holding a license under this Chapter shall exhibit it to all prospective customers before personally promoting a sale.
- (2) Persons holding a license hereunder making sales from a particular place may comply with this section by posting the license in a conspicuous location at that place. (Ord. 1997-13, S3.25.080, 1997)

3.25.090 Transferability; Expiration.

- (1) All licenses issued under authority of this Chapter shall not be transferable.
- (2) All licenses issued under the provisions of this Chapter shall expire one year after the date of issue. (Ord. 1997-13, S3.25.090, 1997)

3.25.100 Exemptions.

- (1) Licensed individuals. Those individuals who hold a valid occupational or professional license, which is issued and regulated by the State of Indiana are exempt from this Ordinance. This exemption shall only be applicable to the practice under or business conducted, pursuant to and within the terms and provision of the individual's license. Any individual claiming an exemption shall be required, upon request by the Jasper Police Department, to provide written proof of his or her valid licensure, for example, a copy of a license or certificate that was issued by the State of Indiana. The Jasper Police Department shall make any determination as to whether the activity to be conducted falls within the claimed licensure.
- (2) Yard sales. A resident of the City of Jasper who conducts a sale of tangible personal property for no more than six (6) days per calendar year at his primary residence.

- (3) Local not-for-profit. The members of any not-for-profit organization a majority of the members of which live in Dubois County, Indiana.
- (4) Locally grown produce. Fresh produce for human consumption grown within Dubois County, which produce was actually raised by the seller or the seller's immediate family.
- (5) Estate sale/auction. Items sold at sales or auctions involving estates of residents of City of Jasper or real property and the improvements located on said real property located in the City of Jasper or the personal property used and held by the decedent thereon.
- (6) Commercial salespersons. Commercial travelers or salespersons calling exclusively upon businesses, professional persons, schools, or public institutions for the purpose of taking orders or selling books, equipment, supplies or services used professionally thereby.
- (7) Handcraft shows or fairs. Organized shows, fairs, exhibitions or demonstrations involving two (2) or more different crafters of hand crafted items at an established business location within the City of Jasper. "Hand crafted" means items which have been created or crafted by the individual who is selling the item. (Ord. 1997-13, S3.25.100, 1997)

3.25.110 Right to Appeal. Any person aggrieved by the decision of the Jasper Police Department in regard to the denial or revocation of a license as provided for herein shall have the right to appeal to the Board of Public Works. Appeal shall be taken by filing with the Board of Public Works, within 14 days after notice of the decision by the Jasper Police Department has been mailed to the person's last known address, a written statement setting forth the grounds for the appeal. The Board of Public Works shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the person in the manner provided for in 3.25.060 for notice of hearing on revocation. The order of the Board of Public Works on the appeal shall be final. (Ord. 1997-13, S3.25.110, 1997)

3.25.120 Effective Date. That this Ordinance shall be in full force and effect on January 1, 1998. (Ord. 1997-13, S3.25.120, 1997)